App F IX 1

*Previous References* ( 1941-2 / 1Ca ) **File No** 111-41 **Serial Nos** 41, 42.

*Later References*
Ref 111-41 (33

# GENERAL AND REVENUE SECRETARIAT

*Serial Nos*

**Part B for** November 1941

**SUBJECT**

Appeal against the orders of the President of the City Municipal Council Mysore to the Municipal Council

To

The President, City Municipal Council, Mysore

3707 dt 8-11-41

Explains the circumstances under which an —— may be

Received 4/12/41

B S RAGHAVENDRA RAO
PRESIDENT

2505

CITY MUNICIPAL COUNCIL
MYSORE

DO 399/2

TCL 111-41-4 29th Octr 1941

CONFIDENTIAL

Hm 2 30 10 41

My dear Mr Narayana Rao,

Adverting to my telephone conversation with you today, I wish to state that the merchants of Santhepet have filed an appeal against my orders under section 51(1)(X) of the Mysore City Municipalities Act of 1933, copy enclosed Please see also para 3 of my letter No G T 509 of 2nd September 1941, extract enclosed for ready reference

In this connection, I wish to state that the power of the Municipal Council to pass orders under this Section, viz 51(1) (X) is given to the President under Chapter 27, para 1, page 194 of the Mysore City Municipal Rules and Bye-laws According to these Bye-laws, page 42 an appeal 'from any order or decision of an Executive Committee, the President or Chief Officer', lies to the Municipal Council except in cases where an appeal is inadmissable under the Regulation

But under Section 24(2) in a Municipality in which there is neither a Chief Officer nor a Municipal Commissioner, the President exercises all the powers that may be exercised by a Municipal Commissioner and under Section 249 of the Act, page 152 no appeal shall lie to the Municipal Council in respect of any order passed or anything done by a Municipal Commissioner in exercise of the powers conferred upon him by or under the provisions in this Regulation, except in respect of the Sections named therein Powers under Section 51(1) (X) delegated to a Commissioner by the

Council would therefore be unappealable under Section 249. In this instance, the powers have been delegated to the President, but when no appeals would be admissable over the orders of a Commissioner in respect of orders passed by him in exercise of powers conferred upon him ~~by or under the provisions of this Regulation except in cases where specified therein~~ under this section, I think that we may argue that when the President has got all the powers of the Commissioner no appeal should lie over the orders passed by him under this Section

If you agree with me or if you think that before taking up this question before the Municipal Council, the legal aspect of this question should be examined, I would request you kindly to telephone to me, so that the consideration of this question may be adjourned pending decision whether an appeal lies or not I also request that your decision may kindly be sent to me either by 'phone or telegram before to-morrow afternoon when the meeting takes place

I beg your pardon for rushing you in this manner but this aspect of the question was raised very recently and so this reference

Yours sincerely,

B Nagendra Rao

H V Narayana Rao, Esq ,B A ,LL B ,
Law Secretary to Government,
BANGALORE CITY

KSR

Copy of para 3 of letter No G T 509 of 2/9/1941

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"Mr. Mohammed Sait and some others had put in an appeal petition over my orders to the Municipal Council and this is being placed before the Council in the monthly meeting at the end of this month In the meanwhile, an interpellation had been put up at the last meeting of the Council a copy of which and my reply thereto is enclosed. The position was explained to the Council From their queries, I understand that in the Municipal Council, even in the Congress party there are two sections and one of these does not want to interfere with the orders as they are conducive to better sanitation and to the improvement of the Town "

"TRUE EXTRACT"

PRESIDENT.

KSR

# MYSORE CITY MUNICIPALITY

# NOTIFICATION.

In order to remove congestion of traffic and prevent danger, obstruction or inconvenience to the Public in the old Santhepet by heaping or measuring of grains in the streets or on the foot-paths, it is hereby ordered under para (1) of the Bye-laws framed under Section 51 (1) (X) of the Mysore City Municipality Act of 1933 that with effect from 10th August 1941 Bullock carts and Motor lorries laden with grain in bulk and not in bags shall be prohibited from using the Banumiah road (previously known as the Santhepet road) from the Dufferin Clock Tower square up to the junction of Banumiah road with Chamaraja road, between 5 a m and 9 p m every day

MYSORE,
25th July 1941

B S RAGHAVENDRA RAO,
*President*

CROWN ELECTRIC PRESS MYSORE 7-41

# ಮೈಸೂರು ಸಿಟಿ ಮ್ಯುನಿಸಿಪಾಲಿಟಿ

# ನೋಟೀಸು.

ಹಳೆ ಸಂತೆಪೇಟೆಯಲ್ಲಿ ಧಾನ್ಯಗಳನ್ನು ರಾಶಿಹಾಕುವುದರಿಂದ ಅಥವಾ ಅಳತೆ ,ವಗ್ಯೆರೆ ಮಾಡುವುದರಿಂದ ಉಂಟಾಗುವ ಟ್ರಾಫಿಕ್ ಗೊಂದಲವನ್ನು ತಪ್ಪಿಸುವುದ ಕ್ಕಾಗಿಯು ಮತ್ತು, ಇದರಿಂದ ಜನರಿಗೆ ಉಂಟಾಗಬಹುದಾದ ಅಪಾಯ, ಅಡಚಣೆ ಅಥವಾ ಅನಾನುಕೂಲಗಳನ್ನು ತಪ್ಪಿಸುವುದಕ್ಕಾಗಿಯು, **1933** ನೇ ಇಸವಿ ಮೈಸೂರು ಸಿಟಿ ಮ್ಯುನಿಸಿಪಲ್ ಆಕ್ಟಿನ **51 (1) (X)** ನೇ ಸೆಕ್ಷೆ೯ ಅನುಸಾರ ವಾಗಿ ತಯಾರಾದ ಬೈಲಾಗಳ ಒಂದನೇ ಪ್ಯಾರಾ ಪ್ರಕಾರ ಈ ಕೆಳಗೆ ನಮೂದಿ ಸಿರುವಂತೆ ಆರ್ಡರ್ ಮಾಡಲಾಗಿರುತ್ತೆ.

ಇದೇ **1941** ನೇ ಇಸವಿ ಆಗಸ್ಟು **10** ನೇ ತಾರೀಖು ಲಾಗಾಯಿತು ಚೀಲದಲ್ಲಲ್ಲದೆ ರಾಶಿಯಾಗಿ ಧಾನ್ಯಗಳಿಂದ ಭರ್ತಿಯಾದ ಎತ್ತಿನ ಗಾಡಿ ಮತ್ತು, ಮೋಟಾರು ಲಾರಿ ವಗ್ಯೆರೆ ವಾಹನಗಳು ಪ್ರತಿದಿನ ಬೆಳಿಗಿನ **5** ಘಂಟೆ ಲಾಗಾ ಯಿತು ರಾತ್ರಿ **9** ಘಂಟೆಯವರೆಗೆ ಡಫರ್ಿ ಗಡಿಯಾರದ ಚೌಕದ ಲಾಗಾಯಿತು ಒನುಮಯ್ಯ ಮತ್ತು, ಚಾಮರಾಜ ರೋಡುಗಳ ಜಂಕ್ಷೆ೯ ವರೆಗೆ ಅಂದರೆ (ಹಿಂದೆ ಸಂತೆಪೇಟೆ ರಸ್ತೆ ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಿದ್ದ) ಒನುಮಯ್ಯ ರಸ್ತೆಯಲ್ಲ ತಿರುಗಾಡು ವುದನ್ನು ಈ ಮೂಲಕ ನಿರೋಧಿಸಲ್ಪಟ್ಟಿದೆ

ಮೈಸೂರು
ತಾ|| 2೦-7-1941

ಬಿ ಎಸ್ ರಾಘವೇಂದ್ರರಾವ್,
ಪ್ರೆಸಿಡೆಂಟ್

ಕ್ರೌನ್ ಎಲೆಕ್ಟ್ರಿಕ್ ಪ್ರೆಸ್, ಮೈಸೂರು 7 41

2006/2

B S RAGHAVENDRA RAO
PRESIDENT

CITY MUNICIPAL COUNCIL
MYSORE

DE. AN'S OFFICE
2 '41
NO M - 428/2

24th Sep 1941

D G 354/2 Books

Dear Mr da Costa,

As instructed by the Dewan I am sending herewith a copy of the Municipal Act of 1933 and also a copy of the Bye-laws of the Mysore City Municipality

1) Submitted
Bore
25/9/41

Yours sincerely,
B S Raghavendra Rao

E da Costa, Esq , M A (Oxon)
Private Secretary to the Dewan
of Mysore, Mysore

25/9/41

2) To Law Member
with compliments
KSR
25/9/41

D

General and Revenue Secretariat

File No of 193

[App F III 2

OFFICE OF THE MINISTER FOR LAW
SEP 27 1941
No 3024

Law Sec. 4

3) Please see Secs 24 (2) and 249 of the city municipal Act and Rule 1 in chapter VII of the Rules & Bye-laws of Mysore city municipal Council (Page 42) and note whether the powers of a municipal Commr exercised by the President of the Mysore City municipal Council by virtue of Secn 24 (2) is exempt from appeal ~~of~~ in terms of Secn 249 or is subject to appeal ~~thereto~~ under Rule 1 of chapter VII

Sd
28-9-41

4) The Mysore City Municipality have framed bye-laws and one of the bye-laws framed under Rule 49(b) of the old Municipal Act of 1906 provides for an appeal to the Municipal Council from the orders or decisions passed by the President The question for consideration is whether an appeal would lie to the Municipal Council on all orders passed by the President This has to be decided by a reference to the Act of 1933 as it is that Act that is now in force The Mysore City Municipality has only a President and there is neither a Chief Officer nor a Municipal Commissioner Section 24(2) of the Mysore City Municipalities Act, 1933 empowers the President to exercise all the powers, which a Municipal Commissioner in the Municipality has under Chapters XIII and XIV of the Act Section 249 lays down that no appeal

NOTE—Contn Sheet

shall lie to the Municipal Council in respect of any order passed or anything done by a Municipal Commissioner in the exercise of powers conferred upon him by or under the provisions of the Act except in the case of an order passed or anything done by him under any of the following provisions, namely -

(i) sub-section (4) of Section 107, (ii) sub-sections (1) and (2) of Section 109, (iii) clause (b) of sub-section (6) of Section 115, (iv) sub-section (1) of Section 118, (v) sub-section (1) of Section 120, (vi) sub-section (1) of Section 124, (vii) sub-section (2) of Section 154, (viii) Section 155, (ix) Section 181, (x) Section 182, (xi) clause (b) of sub-section (1) of Section 187, (xii) Section 192, (xiii) clause (c) of sub-section (1) of Section 248 in respect of an order of dismissal

5) It can be seen from this that the scope of an appeal to the Council is very much limited and it is only in respect of the orders passed under the sections specifically mentioned therein that an appeal could lie The rule framed by the Mysore City Municipality is very wide and general. This rule seems to contemplate an appeal against every order passed by the President Such a rule can be construed only in the light of Section 249. Power to file an appeal is not a natural right but is one that ought to be provided for by the Legislature and we have to look

Serial No

DEWAN'S OFFICE
NO 2812

to Section 249 to consider in what cases an appeal would lie from the Municipal Commissioner (the President in this case) to the Municipal Council. It is an accepted principle that where there is a conflict between a rule and ~~a section of~~ a provision of the Act it is the latter that has to prevail i e , so much of the rule as is inconsistent with the Act will be considered ultra vires The rule has now to be modified in the light of Section 249 of the Act of 1933 . Even as it is, the rule has to be construed as allowing appeals against the orders of the President only in cases provided for under Section 249 of the Act

OFFICE OF THE MINISTER FOR LAW
OCT 1 1941
No 3207

Minister for Law )

Dewan)

Hm 30.9.41

6) Dr 1-10-41

OFFICE OF THE MINISTER FOR L S G & P H
Date 3-10-41
No 2024

7) Dr 3/10/41

Minister for L S G)

Dr 4/10/41

Hm 4/10/41

8) Please put up the main file in this connection

Dewan 6.10.41

Hm 6/10/41

NOTE—Contn Sheet

2006/2

Fil No of 194 | General and Reven Secretariat

Serial No

9) submitted - There is no file on the subject in the L-S-G Branch The note was put up by the Secy to Govt, Law Deptt as directed by the Law Minister in para 3 supra

Law Secy for S/Secy

WHS 6/10

Minister L S S

Hm 9/10/41

Hm 10 10

Hm 12 10 41

Hm 13/10/41

The Private Secy, Mysore civilian has not made any official reference so far on this subject to the Govt

for S/Secy

SECY LAW DEPT 9 OCT 1941 GOVT OF MYSORE

OFFICE OF THE FOR L S G & P H Date 10-10-41 No 2178 2177

From The DOA, Civil Md el, Mysore
Do No 399 Dt 29-10 41
Brings to the notice of Govt that an appeal has been filed to the Council against his orders prohibiting the measuring of Grains in the old Sanitapet and requests that the legal aspect of the case may be examined & the decision of Govt intimated
Submitted for perusal The DOA requests orders today either by telegram or by phone
Submitted for orders whether a reply

2006 / 2505

General and Revenue Secretariat | File No | of 194 | [App F III—2

OF S OFFICE
31 OCT 1941
3628
SECY TO GOVT OF MYSORE
31 OCT 1941

Serial No

may be sent on the lines approved in the note paras 4 to 7 supra

Law Secy ) for
30/10 30 10 41

A reply may be sent on the lines in the note to make the position clear

Minister ) Hm 2 30 10 41
L S G )
Devan )

OFFICE OF THE MINISTER FOR L-S G & P-H
Date 30-10-41
No 2494

for
30 10 41

Secy
1/11/41

Hm 2 3/11/41
Apt please
3/11/41

Submit with a draft letter for appl

HMB 5/11

For perusal before issue
Law Secy ) for 6/11/41

TYPING SECTION
6 NOV 1941

Hm 2 6 11 41
Issue
6/11/41

To Resdt, Cff Mc cc, Mysore
No L3709 Dt 8-11-41
Communicates the views of Govt

Ans PD
6/11

NOTE—Contn Sheet

WD 04155—GPB—55 000—23 10 41

File No | of 194 | General and Revenue Secretariat

Serial No

Appendix F G—1]

SUBJECT

Section ML

File No 111-41

Serial No 42

*Diary No of letter replied to*

No L3709

General and Revenue Secretariat

( )

*the* *19*

To The Dot, city mlcl, Mysore

Sir,

*Date of issue 8th Nov. 41.

Signed by Sr G. Ramachandra Rao.

With reference to your letter no 399 Dy 29-10-41 bringing to the notice of Govt that an appeal has been filed to the Mysore Council against ~~this~~ orders prohibiting the measuring of grains in the old Santhepet under sec 51 (1)(x) of the city Mlties Act & the bye laws framed thereunder and requesting that the legal aspect of the case may be examined and the decision of Govt thereon intimated etc, I am directed to state as

List of enclosures

Copied by 2 copies

11/6/41

Examined by

WD 03695—GPB—30 000—29 1 40

follows:—

The Mysore city Mcdf have framed rules bye-laws and one of the bye-laws rules framed under Rule 49 (b) of the old Lee Municipal Act of 1906 provides for an appeal to the Mc council from the orders or decisions passed by the Pdt. The question for consideration is whether an appeal would lie to the Mc Council on all orders passed by the Pdt This has to be decided by a reference to the Act of 1933 as it is mysore city Mcdf that Act that is now in force. The Mysore city Mcdf has only a Pdt and there is neither a Chief Officer nor a Mc Comm. Section 24(2) of the Mysore city Mcdf Act, 1933 empowers the Pdt to exercise all the Powers, which a Mc Comm in the Mcdf has under chapters XIII & XIV of the Act Section 249 lays down that no appeal shall lie

G R S App F G 3

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form*)

to the Mil council in respect of any order passed or anything done by a Mil Comm in the exercise of powers conferred upon him by or under the provisions of the Act except in the case of an order passed or anything done by him under any of the following provisions, namely — (I) sub-section (4) of Section 107, (II) sub-sections (1) & (2) of Section 109, (III) clause (b) of sub-section (b) of Section 115, (IV) sub-section (1) of Section 118, (V) sub-section (1) of Section 120, (VI) sub-section (1) of section 124, (VII) sub-section (2) of Section 154, (VIII) Section 155, (IX) Section 181, (X) Section 182, (XI) clause (b) of sub-section (1) of Section 187, (XII) Section 192, (XIII) clause

WD 0433—GPB—10 000—17-10-33

(a) of sub-section (1) of Section 248
in respect of an order of dismissal
It can be seen from this
that the scope of an appeal
to the Municipal Council is very much
limited and it is only in
respect of the orders passed
under the sections specifically
mentioned therein that an appeal
could lie. The aforesaid rule framed by
the Mysore city Mcpl is very wide
and general. This rule seems
to contemplate an appeal
against every order passed
by the Pob. Such a rule can
be construed only in the light
of Section 249 and with respect to the right
to not a natural right
but is one that ought to be
provided for by the Legislature
and ~~we have to look~~ enumerated the cases in which
to Section 249 ~~to consider in~~
what cases an appeal would
lie from the order of the Municipal Commr (the Pob in this case)

G R S App F G. 3

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form*)

to the Jnl Council It is an accepted principle that where there is a Conflict between a rule and the Act, it is the latter that has to prevail i.e., so much of the rule as is inconsistent with the Act will be considered ultra Vires The rule requires therefore to be modified in the light of Section 249 of the Act of 1933 Even as it is, the rule has to be Construed as allowing appeals against the orders of the DDs only in cases provided for under section 249 of the Act

I have etc

Hm 6.11.41

JRS Norsey Rent Law Deptt

5/11

WD 0130—GPB—10 000—17-10-33